IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.5475 OF 2004

Shringar Dresses and others).. Petitioners

Versus

Dipikaben Kishore Shah and others).. Respondents

Mr.P.S.Dani for the Petitioners.

Mr.G.S.Godbole for the Respondents.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 10TH AUGUST 2005

P.C.:

. This Petition challenges the concurrent findings of facts of the trial Court and the Appellate Court. According to the Petitioners, the Respondents-landlords ought to have started his showroom of electronic goods in the premises which became available to the landlord during the pendency of the Suit. Admittedly, all the premises available to the Respondents are on the higher floors of the building. However, in respect of one shop which was known as Datta Medical Stores, the Petitioner claims that the landlords have assigned those premises to Poona Light House instead of using it for himself. Both the Courts below have found, after assessing the evidence on record, that the premises namely Datta Medicals never came in possession of the landlord and that the tenant of

Datta Medicals entered into a partnership with certain other persons for running Poona Light House. Subsequently, it appears that the original tenant has resigned from the partnership although Poona Light House still continues to run.

2. Both the Courts below have found that the premises which the Respondents obtained on the higher floors of the building were unsuitable for conducting a business dealing with electronic goods. The Courts have also held that the shop run in the name and style of Datta Medical Store never came in possession of the Respondents and, therefore, the Respondents could not conduct there business in those premises. There is no infirmity in these findings. Petition rejected.

3. The Petitioners to vacate the premises by 31st May 2006 on filing usual undertaking. Undertaking to be filed within three weeks from today.